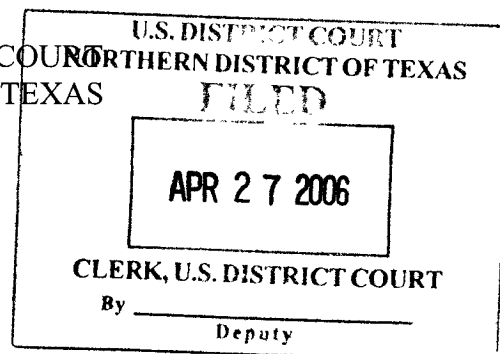


IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
AMARILLO DIVISION



ROBERT FITZGERALD AUSTIN,

Petitioner,

v.

DOUGLAS DRETKE, Director,  
Texas Department of Criminal Justice,  
Correctional Institutions Division,

Respondent.

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2:06-CV-0062

**ORDER OVERRULING OBJECTIONS,**  
**ADOPTING REPORT AND RECOMMENDATION,**  
**and DENYING PETITION FOR A WRIT OF HABEAS CORPUS**


Petitioner has filed with this Court a petition for a writ of habeas corpus challenging a prison disciplinary case. On April 10, 2006, the United States Magistrate Judge issued a Report and Recommendation in this cause, recommending therein that the petition for a writ of habeas corpus be denied as petitioner did not lose any previously accrued good time credits. On April 25, 2006, petitioner filed objections to the Report and Recommendation. Citing *Montgomery v. Anderson*, 262 F.3d 641 (7<sup>th</sup> Cir. 2001), petitioner contends the “deprivation of the opportunity to earn good time credits, like revocation of already awarded credits, may and must be pursued via habeas corpus” as the “stakes are the same: the length of incarceration.” Petitioner appears to argue a disciplinary ruling resulting in only a change in credit-earning status, without a loss of previously accrued good time credits, can be challenged via habeas corpus.

The undersigned United States District Judge has made an independent examination of

the record in this case. As the law exists in this circuit, petitioner's objections are without merit and are hereby OVERRULED. The Magistrate Judge's Report and Recommendation is hereby ADOPTED. Accordingly, the petition for a writ of habeas corpus filed by petitioner is hereby DENIED.

IT IS SO ORDERED.

ENTERED this 27<sup>th</sup> day of April 2006.

  
MARY LOU ROBINSON  
UNITED STATES DISTRICT JUDGE